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**VIA CERTIFIED MAIL  
RETURN RECEIPT REQUESTED**

June 24, 2014

Eric Jensen, EH&S Compliance Manager  
Tree Island Wire (USA), Inc. 12459 Arrow Route  
Rancho Cucamonga, CA 91739

Mike Burkholder, Operations Manager  
Tree Island Wire (USA), Inc.  
3880 West Valley Blvd.  
Walnut, CA 91789

**Re: Notice of Violations and Intent to File Suit Under the Federal Water  
Pollution Control Act**

Dear Mr. Jensen and Mr. Burkholder:

I am writing on behalf of the Center for Community Action and Environmental Justice ("CCA EJ") in regard to violations of the Clean Water Act ("Act") that CCA EJ believes are occurring at the Tree Island Wire (USA), Inc. or TI Wire facility, located at 12459 Arrow Route in Rancho Cucamonga, California ("Facility"). CCA EJ is a non-profit public benefit corporation dedicated to working with communities to advocate for environmental justice and pollution prevention. CCA EJ has members living in the community adjacent to the Facility and the Santa Ana River Watershed. CCA EJ and its members are deeply concerned with protecting the environment in and around their communities, including the Santa Ana River Watershed. This letter is being sent to you as the responsible owners, officers, or operators of the Facility (all recipients are hereinafter collectively referred to as "TI Wire").

This letter addresses TI Wire's unlawful discharge of pollutants from the Facility through Day Creek into the Santa Ana River. The Facility is discharging storm water pursuant to National Pollutant Discharge Elimination System ("NPDES") Permit No. CA S000001, State Water Resources Control Board ("State Board") Order No. 92-12-DWQ as amended by Order

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No. 97-03-DWQ (hereinafter “General Permit”).<sup>1</sup> The WDID identification number for the Facility listed on documents submitted to the Santa Ana Regional Water Quality Control Board (“Regional Board”) is 8 36I003788. The Facility is engaged in ongoing violations of the substantive and procedural requirements of the General Permit.

Section 505(b) of the Clean Water Act requires a citizen to give notice of intent to file suit sixty (60) days prior to the initiation of a civil action under Section 505(a) of the Act (33 U.S.C. § 1365(a)). Notice must be given to the alleged violator, the U.S. Environmental Protection Agency (“EPA”) and the State in which the violations occur.

As required by the Clean Water Act, this Notice of Violation and Intent to File Suit provides notice of the violations that have occurred, and continue to occur, at the Facility. Consequently, TI Wire is hereby placed on formal notice by CCAEJ that, after the expiration of sixty days from the date of this Notice of Violations and Intent to Sue, CCAEJ intends to file suit in federal court against TI Wire under Section 505(a) of the Clean Water Act (33 U.S.C. § 1365(a)), for violations of the Clean Water Act and the General Permit. These violations are described more extensively below.

## **I. Background.**

On April 3, 1992, the State Board approved TI Wire’s Notice of Intent to Comply With the Terms of the General Permit to Discharge Storm Water Associated with Industrial Activity (“NOI”). In its NOI, TI Wire has certified that the Facility is classified under SIC Code 3315. The Facility discharges storm water from its 17 acre industrial site from at least three storm water outfalls. CCAEJ is informed and believes that all storm water discharged from the site is associated with industrial activity or, alternatively, includes commingled storm water from both industrial and non-industrial activity. The outfalls discharge into San Bernardino County’s municipal storm sewer system, which discharges into Day Creek, which flows into Reach 3 of the Santa Ana River.

The Regional Board has identified beneficial uses of the Santa Ana River, including its tributary, Day Creek, and established water quality standards for it in the “Water Quality Control Plan for the Santa Ana River Basin (Region 8)”, generally referred to as the Basin Plan. See [http://www.swrcb.ca.gov/rwqcb8/water\\_issues/programs/basin\\_plan/index.shtml](http://www.swrcb.ca.gov/rwqcb8/water_issues/programs/basin_plan/index.shtml). The beneficial uses of these waters include, among others, municipal and domestic supply, groundwater recharge, water contact recreation, non-contact water recreation, cold freshwater habitat, wildlife habitat, agricultural supply, warm freshwater habitat, and rare, threatened or endangered species.

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<sup>1</sup> On April 1, 2014, the State Board reissued the General Permit, continuing its mandate that industrial facilities implement the best available technology economically achievable (“BAT”) and best conventional pollutant control technology (“BCT”) and, in addition, establishing numeric action levels mandating additional pollution control efforts. State Board Order 2014-0057-DWQ. The new permit, however, does not go into effect until July 1, 2015. Until that time, the current General Permit remains in full force and effect.

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The non-contact water recreation use is defined as “[u]ses of water for recreational activities involving proximity to water, but not normally involving contact with water where water ingestion is reasonably possible. These uses include, but are not limited to, picnicking, sunbathing, hiking, beachcombing, camping, boating, tidepool and marine life study, hunting, sightseeing, or aesthetic enjoyment in conjunction with the above activities.” *Id.* at 3-3. Contact recreation use includes fishing and wading. *Id.* at 3-2. Visible pollution, including visible sheens and cloudy or muddy water from industrial areas, impairs people’s use of the Santa Ana River for contact and non-contact water recreation.

The Basin Plan includes a narrative toxicity standard which states that “[t]oxic substances shall not be discharged at levels that will bioaccumulate in aquatic resources to levels which are harmful to human health.” *Id.* at 4-17. The Basin Plan includes a narrative oil and grease standard which states that “[w]aste discharges shall not result in deposition of oil, grease, wax, or other material in concentrations which result in a visible film or in coating objects in the water, or which cause a nuisance or adversely affect beneficial uses.” *Id.* at 4-15. The Basin Plan includes a narrative suspended and settleable solids standard which states that “waters shall not contain suspended or settleable solids in amounts which cause a nuisance or adversely affect beneficial uses...” *Id.* at 4-16. The Basin Plan provides that “[t]he pH of inland surface waters shall not be raised above 8.5 or depressed below 6.5...” *Id.* at 4-15. The Basin Plan contains a narrative floatables standard which states that “[w]aste discharges shall not contain floating materials, including solids, liquids, foam or scum, which cause a nuisance or adversely affect beneficial uses.” *Id.* at 4-11. The Basin Plan contains a narrative color standard which states that “[w]aste discharges shall not result in coloration of the receiving waters which causes a nuisance or adversely affect beneficial uses.” *Id.* at 4-10. The Basin Plan contains a nitrate standard that “[n]itrate-nitrogen standards shall not exceed 45 mg/L (as NO<sub>3</sub>) or 10 mg/L (as N) in inland surface waters designated MUN as a result of controllable water quality factors.” *Id.* at 4-14.

The EPA has adopted a freshwater numeric water quality standard for zinc of 0.120 mg/L (Criteria Maximum Concentration – “CMC”). 65 Fed.Reg. 31712 (May 18, 2000) (California Toxics Rule).<sup>2</sup>

The EPA has published benchmark levels as guidelines for determining whether a facility discharging industrial storm water has implemented the requisite best available technology economically achievable (“BAT”) and best conventional pollutant control technology (“BCT”).<sup>3</sup> The following benchmarks have been established for pollutants discharged by TI Wire: pH – 6.0 - 9.0 standard units (“s.u.”); total suspended solids (“TSS”) – 100 mg/L, oil and grease (“O&G”)

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<sup>2</sup> The value for zinc is expressed as a function of total hardness (mg/L) in the water body and correspond to a total hardness of 100 mg/L, which is the default listing in the California Toxics Rule.

<sup>3</sup> The Benchmark Values can be found at:

[http://www.epa.gov/npdes/pubs/msgp2008\\_finalpermit.pdf](http://www.epa.gov/npdes/pubs/msgp2008_finalpermit.pdf) and

<http://cwea.org/p3s/documents/multi-sectorrev.pdf> (Last accessed on May 23, 2014).

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– 15 mg/L, iron – 1.0 mg/L, nitrate + nitrite as nitrogen – 0.68 mg/L, aluminum – 0.75 mg/L, and zinc – 0.13 mg/L.<sup>4</sup>

## **II. Alleged Violations of the NPDES Permit.**

### **A. Discharges in Violation of the Permit**

TI Wire has violated and continues to violate the terms and conditions of the General Permit. Section 402(p) of the Act prohibits the discharge of storm water associated with industrial activities, except as permitted under an NPDES permit (33 U.S.C. § 1342) such as the General Permit. The General Permit prohibits any discharges of storm water associated with industrial activities or authorized non-storm water discharges that have not been subjected to BAT or BCT. Effluent Limitation B(3) of the General Permit requires dischargers to reduce or prevent pollutants in their storm water discharges through implementation of BAT for toxic and nonconventional pollutants and BCT for conventional pollutants. BAT and BCT include both nonstructural and structural measures. General Permit, Section A(8). Conventional pollutants are TSS, O&G, pH, biochemical oxygen demand, and fecal coliform. 40 C.F.R. § 401.16. All other pollutants are either toxic or nonconventional. *Id.*; 40 C.F.R. § 401.15.

In addition, Discharge Prohibition A(1) of the General Permit prohibits the discharge of materials other than storm water (defined as non-storm water discharges) that discharge either directly or indirectly to waters of the United States. Discharge Prohibition A(2) of the General Permit prohibits storm water discharges and authorized non-storm water discharges that cause or threaten to cause pollution, contamination, or nuisance.

Receiving Water Limitation C(1) of the General Permit prohibits storm water discharges and authorized non-storm water discharges to surface or groundwater that adversely impact human health or the environment. Receiving Water Limitation C(2) of the General Permit also prohibits storm water discharges and authorized non-storm water discharges that cause or contribute to an exceedance of any applicable water quality standards contained in a Statewide Water Quality Control Plan or the applicable Regional Board's Basin Plan. The General Permit does not authorize the application of any mixing zones for complying with Receiving Water Limitation C(2). As a result, compliance with this provision is measured at the Facility's discharge monitoring locations.

TI Wire has discharged and continues to discharge storm water with unacceptable levels of pH, TSS, zinc, aluminum, and other pollutants in violation of the General Permit. TI Wire's sampling and analysis results reported to the Regional Board confirm discharges of specific pollutants and materials other than storm water in violation of the Permit provisions listed above. Self-monitoring reports under the Permit are deemed "conclusive evidence of an exceedance of a permit limitation." *Sierra Club v. Union Oil*, 813 F.2d 1480, 1492 (9th Cir. 1988).

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<sup>4</sup> The value for zinc is hardness dependent. The value here is based on a hardness range of 100 – 125 mg/L CaCO<sub>3</sub>, which is the default listing in the California Toxics Rule.

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The following discharges of pollutants from the Facility have contained concentrations of pollutants in excess of numeric water quality standards established in the Basin Plan and the California Toxics Rule as well as narrative water quality standards in the Basin Plan and have thus violated Discharge Prohibitions A(1) and A(2) and Receiving Water Limitations C(1) and C(2) and are evidence of ongoing violations of Effluent Limitation B(3) of the General Permit.

Date	Parameter	Observed Concentration / Conditions	Basin Plan Water Quality Standard / California Toxics Rule	Outfall (as identified by the Facility)
12/19/2013	pH	8.9 s.u.	6.5 – 8.5 s.u.	E-1 West Culvert
12/19/2013	pH	8.8 s.u.	6.5 – 8.5 s.u.	E-3 South of EVG
10/28/2013	pH	8.8 s.u.	6.5 – 8.5 s.u.	E-2 South of Office
10/28/2013	pH	8.7 s.u.	6.5 – 8.5 s.u.	E-3 South of EVG
2/8/2013	pH	9.1 s.u.	6.5 – 8.5 s.u.	E-3 South of EVG
2/8/2013	pH	8.9 s.u.	6.5 – 8.5 s.u.	E-2 South of Office
11/4/2011	pH	8.7 s.u.	6.5 – 8.5 s.u.	E-1 West Culvert
11/4/2011	pH	8.9 s.u.	6.5 – 8.5 s.u.	E-2 South of Office
11/4/2011	pH	8.8 s.u.	6.5 – 8.5 s.u.	E-3 South of EVG
10/6/2011	pH	9.2 s.u.	6.5 – 8.5 s.u.	E-1 West Culvert
10/6/2011	pH	8.8 s.u.	6.5 – 8.5 s.u.	E-2 South of Office
10/6/2011	pH	8.8 s.u.	6.5 – 8.5 s.u.	E-3 South of EVG
4/28/2010	pH	9 s.u.	6.5 – 8.5 s.u.	E-1 West Culvert
4/28/2010	pH	9 s.u.	6.5 – 8.5 s.u.	E-2 South of Office
4/28/2010	pH	8.7 s.u.	6.5 – 8.5 s.u.	E-3 South of EVG
12/19/2013	Zinc	0.94 mg/L	0.12 mg/L (CMC)	E-1 West Culvert
12/19/2013	Zinc	0.4 mg/L	0.12 mg/L (CMC)	E-3 South of EVG
10/28/2013	Zinc	0.16 mg/L	0.12 mg/L (CMC)	E-1 West Culvert
10/28/2013	Zinc	1.7 mg/L	0.12 mg/L (CMC)	E-2 South of Office
10/28/2013	Zinc	0.69 mg/L	0.12 mg/L (CMC)	E-3 South of EVG
2/8/2013	Zinc	0.14 mg/L	0.12 mg/L (CMC)	E-1 West Culvert
2/8/2013	Zinc	4.3 mg/L	0.12 mg/L (CMC)	E-2 South of Office
11/4/2011	Zinc	2 mg/L	0.12 mg/L (CMC)	E-1 West Culvert
11/4/2011	Zinc	1.2 mg/L	0.12 mg/L (CMC)	E-2 South of Office
11/4/2011	Zinc	0.46 mg/L	0.12 mg/L (CMC)	E-3 South of EVG
10/6/2011	Zinc	0.66 mg/L	0.12 mg/L (CMC)	E-1 West Culvert
10/6/2011	Zinc	0.45 mg/L	0.12 mg/L (CMC)	E-2 South of Office
10/6/2011	Zinc	0.82 mg/L	0.12 mg/L (CMC)	E-3 South of EVG
10/6/2010	Zinc	1.7 mg/L	0.12 mg/L (CMC)	E-1 West Culvert
10/6/2010	Zinc	1 mg/L	0.12 mg/L (CMC)	E-2 South of Office
10/6/2010	Zinc	0.45 mg/L	0.12 mg/L (CMC)	E-3 South of EVG
4/28/2010	Zinc	0.27 mg/L	0.12 mg/L (CMC)	E-1 West Culvert

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4/28/2010	Zinc	0.14 mg/L	0.12 mg/L (CMC)	E-3 South of EVG
4/30/2014	Narrative	Cloudy, Debris	Basin Plan at 4-16; Basin Plan at 4-11	Discharge E1
12/19/2013	Narrative	Cloudy	Basin Plan at 4-16	Discharge E1
12/19/2013	Narrative	Cloudy	Basin Plan at 4-16	Discharge E3
11/21/2013	Narrative	Cloudy	Basin Plan at 4-16	Discharge E1
11/21/2013	Narrative	Cloudy	Basin Plan at 4-16	Discharge E2
11/21/2013	Narrative	Cloudy	Basin Plan at 4-16	Discharge E3
10/28/2013	Narrative	Cloudy	Basin Plan at 4-16	Discharge E1
10/28/2013	Narrative	Cloudy	Basin Plan at 4-16	Discharge E2
10/28/2013	Narrative	Cloudy	Basin Plan at 4-16	Discharge E3
2/8/2013	Narrative	Cloudy, Dirt	Basin Plan at 4-16	E-2 South of Office
3/31/2012	Narrative	Cloudy	Basin Plan at 4-16	E-2 South of Office
3/31/2012	Narrative	Cloudy	Basin Plan at 4-16	E-3 South of EVG
1/21/2012	Narrative	Cloudy grey water	Basin Plan at 4-16	E-2 South of Office
1/21/2012	Narrative	Cloudy grey water	Basin Plan at 4-16	E-3 South of EVG
10/5/2011	Narrative	Cloudy grey water	Basin Plan at 4-16	E-1 West Culvert
10/5/2011	Narrative	Cloudy grey water	Basin Plan at 4-16	E-2 South of Office
10/5/2011	Narrative	Cloudy grey water	Basin Plan at 4-16	E-3 South of EVG
10/5/2010	Narrative	Oil sheen and murky water	Basin Plan at 4-15; Basin Plan at 4-16	E-1 West Culvert
10/5/2010	Narrative	Oil sheen and murky water	Basin Plan at 4-15; Basin Plan at 4-16	E-2 South of Office
10/5/2010	Narrative	Oil sheen and murky water	Basin Plan at 4-15; Basin Plan at 4-16	E-3 South of EVG

The information in the above table reflects data gathered from TI Wire's self-monitoring during the 2009-2010, 2010-2011, 2011-2012, 2012-2013, and 2013-2014 wet seasons. CCAEJ alleges that during each of those wet seasons and continuing through today, TI Wire has discharged storm water contaminated with pollutants at levels or observations that exceed or violate one or more applicable water quality standards, including but not limited to each of the following:

- pH – 6.5 – 8.5 s.u. (Basin Plan)
- Zinc – 0.12 mg/L (CMC)
- Oil and Grease – Waste discharges shall not result in deposition of oil, grease, wax, or other material in concentrations which result in a visible film or in coating objects in the water, or which cause a nuisance or adversely affect beneficial uses. (Basin Plan at 4-15)
- Suspended/Settleable Solid – Waters shall not contain suspended or settleable solids in amounts which cause a nuisance or adversely affect beneficial uses. (Basin Plan at 4-16)

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- Floating materials - Waste discharges shall not contain floating materials, including solids, liquids, foam or scum, which cause a nuisance or adversely affect beneficial uses. (Basin Plan at 4-11)

The following discharges of pollutants from the Facility have violated Discharge Prohibitions A(1) and A(2) and Receiving Water Limitations C(1) and C(2) and are evidence of ongoing violations of Effluent Limitation B(3) of the General Industrial Storm Water Permit.

Date	Parameter	Observed Concentration	EPA Benchmark Value	Location (as identified by the Facility)
12/19/2013	Zinc	0.94 mg/L	0.13 mg/L	E-1 West Culvert
12/19/2013	Aluminum	2 mg/L	0.75 mg/L	E-1 West Culvert
12/19/2013	Zinc	0.4 mg/L	0.13 mg/L	E-3 South of EVG
12/19/2013	Aluminum	1.6 mg/L	0.75 mg/L	E-3 South of EVG
10/28/2013	Zinc	0.16 mg/L	0.13 mg/L	E-1 West Culvert
10/28/2013	Total Suspended Solids	1300 mg/L	100 mg/L	E-2 South of Office
10/28/2013	Zinc	1.7 mg/L	0.13 mg/L	E-2 South of Office
10/28/2013	Aluminum	26 mg/L	0.75 mg/L	E-2 South of Office
10/28/2013	Total Suspended Solids	200 mg/L	100 mg/L	E-3 South of EVG
10/28/2013	Zinc	0.69 mg/L	0.13 mg/L	E-3 South of EVG
10/28/2013	Aluminum	3.4 mg/L	0.75 mg/L	E-3 South of EVG
2/8/2013	Zinc	0.14 mg/L	0.13 mg/L	E-1 West Culvert
2/8/2013	Total Suspended Solids	2500 mg/L	100 mg/L	E-2 South of Office
2/8/2013	Zinc	4.3 mg/L	0.13 mg/L	E-2 South of Office
2/8/2013	Aluminum	55 mg/L	0.75 mg/L	E-2 South of Office
2/8/2013	pH	9.1 s.u.	6.0 – 9.0 s.u.	E-3 South of EVG
2/8/2013	Total Suspended Solids	310 mg/L	100 mg/L	E-3 South of EVG
11/4/2011	Total Suspended Solids	290 mg/L	100 mg/L	E-1 West Culvert
11/4/2011	Zinc	2 mg/L	0.13 mg/L	E-1 West Culvert
11/4/2011	Aluminum	5 mg/L	0.75 mg/L	E-1 West Culvert
11/4/2011	Total Suspended Solids	230 mg/L	100 mg/L	E-2 South of Office
11/4/2011	Zinc	1.2 mg/L	0.13 mg/L	E-2 South of Office
11/4/2011	Aluminum	11 mg/L	0.75 mg/L	E-2 South of Office
11/4/2011	Zinc	0.46 mg/L	0.13 mg/L	E-3 South of EVG
11/4/2011	Aluminum	1.5 mg/L	0.75 mg/L	E-3 South of EVG
10/6/2011	pH	9.2 s.u.	6.0 – 9.0 s.u.	E-1 West Culvert
10/6/2011	Zinc	0.66 mg/L	0.13 mg/L	E-1 West Culvert
10/6/2011	Total Suspended Solids	130 mg/L	100 mg/L	E-2 South of Office
10/6/2011	Zinc	0.45 mg/L	0.13 mg/L	E-2 South of Office
10/6/2011	Aluminum	3.4 mg/L	0.75 mg/L	E-2 South of Office
10/6/2011	Zinc	0.82 mg/L	0.13 mg/L	E-3 South of EVG
10/6/2011	Aluminum	3.6 mg/L	0.75 mg/L	E-3 South of EVG
10/6/2010	Total Suspended Solids	130 mg/L	100 mg/L	E-1 West Culvert

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10/6/2010	Zinc	1.7 mg/L	0.13 mg/L	E-1 West Culvert
10/6/2010	Aluminum	2.4 mg/L	0.75 mg/L	E-1 West Culvert
10/6/2010	Total Suspended Solids	300 mg/L	100 mg/L	E-2 South of Office
10/6/2010	Zinc	1 mg/L	0.13 mg/L	E-2 South of Office
10/6/2010	Aluminum	6.5 mg/L	0.75 mg/L	E-2 South of Office
10/6/2010	Zinc	0.45 mg/L	0.13 mg/L	E-3 South of EVG
10/6/2010	Aluminum	1.7 mg/L	0.75 mg/L	E-3 South of EVG
4/28/2010	Zinc	0.27 mg/L	0.13 mg/L	E-1 West Culvert
4/28/2010	Aluminum	0.81 mg/L	0.75 mg/L	E-1 West Culvert
4/28/2010	Zinc	0.14 mg/L	0.13 mg/L	E-3 South of EVG

The information in the above table reflects data gathered from TI Wire's self-monitoring during the 2009-2010, 2010-2011, 2011-2012, 2012-2013, and 2013-2014 wet seasons. CCAEJ alleges that during each of those rainy seasons and continuing through today, TI Wire has discharged storm water contaminated with pollutants at levels that exceed one or more applicable EPA Benchmarks, including but not limited to each of the following:

- Total Suspended Solids – 100 mg/L
- pH – 6.0 – 9.0 s.u.
- Aluminum – 0.75 mg/L
- Zinc – 0.13 mg/L

CCAIEJ's investigation, including its review of TI Wire's analytical results documenting pollutant levels in the Facility's storm water discharges well in excess of applicable water quality standards and the EPA's benchmark values indicates that TI Wire has not implemented BAT and BCT at the Facility for its discharges of pH, TSS, aluminum, zinc, and other pollutants in violation of Effluent Limitation B(3) of the General Permit. TI Wire was required to have implemented BAT and BCT by no later than October 1, 1992, or since the date the Facility opened. Thus, TI Wire is discharging polluted storm water associated with its industrial operations without having implemented BAT and BCT.

In addition, the numbers listed in the tables above indicate that the Facility is discharging polluted storm water in violation of Discharge Prohibitions A(1) and A(2) and Receiving Water Limitations C(1) and C(2) of the General Permit. CCAIEJ alleges that such violations also have occurred and will occur on other rain dates, including every significant rain event that has occurred since June 24, 2009, and that will occur at the Facility subsequent to the date of this Notice of Violation and Intent to File Suit. Attachment A, attached hereto, sets forth each of the specific rain dates on which CCAIEJ alleges that TI Wire has discharged storm water containing impermissible levels of pH, TSS, aluminum, and zinc in violation of Effluent Limitation B(3), Discharge Prohibitions A(1) and A(2), and Receiving Water Limitations C(1) and C(2) of the General Permit.<sup>5</sup>

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<sup>5</sup> The rain dates are all the days when an average of 0.1" or more rain fell as measured by a weather station located approximately 15.5 miles away from the Facility in Riverside. Data from the weather station is available at



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These unlawful discharges from the Facility are ongoing. Each discharge of storm water containing any of these pollutants constitutes a separate violation of the General Industrial Storm Water Permit and the Act. Consistent with the five-year statute of limitations applicable to citizen enforcement actions brought pursuant to the federal Clean Water Act, TI Wire is subject to penalties for violations of the General Permit and the Act since June 24, 2009.

***B. Failure to Develop and Implement an Adequate Monitoring and Reporting Program***

Section B of the General Permit describes the monitoring requirements for storm water and non-storm water discharges. Facilities are required to make monthly visual observations of storm water discharges (Section B(4)) and quarterly visual observations of both unauthorized and authorized non-storm water discharges (Section B(3)). Section B(5) requires facility operators to sample and analyze at least two storm water discharges from all storm water discharge locations during each wet season. Section B(7) requires that the visual observations and samples must represent the “quality and quantity of the facility’s storm water discharges from the storm event.”

The above-referenced data was obtained from the Facility’s monitoring program as reported in its Annual Reports submitted to the Regional Board. This data is evidence that the Facility has violated various Discharge Prohibitions, Receiving Water Limitations, and Effluent Limitations in the General Permit. To the extent the storm water data collected by TI Wire is not representative of the quality of the Facility’s various storm water discharges and that the Facility failed to monitor all qualifying storm water discharges, CCAEJ , alleges that the Facility’s monitoring program violates Sections B(3), (4), (5) and (7) of the General Permit.

Section B(5)(c)(ii) of the General Permit requires the Facility to analyze storm water samples for “toxic chemicals and other pollutants that are likely to be present in storm water discharges in significant quantities.” On information and belief, CCAEJ alleges that both iron and nitrate + nitrite as nitrogen (“N+N”) are likely to be present in storm water discharges from the Facility in significant quantities. TI Wire sampled for iron during both of its storm water sampling events during the 2008-2009 wet season. All six samples that the Facility took contained iron levels well in excess of the EPA’s Benchmark value for iron of 1.0 mg/L. The Facility’s Annual Reports also mention iron oxide from mechanical de-scaling operations as a potential pollutant source. In addition, during the 2006-2007 wet season the Facility sampled for N+N in at least three storm water samples. The levels of N+N contained in the Facility’s storm water were all in excess of the EPA’s Benchmark value for N+N of 0.68 mg/L. This, CCAEJ alleges that TI Wire failed to analyze for both iron and N+N in all storm water samples taken at the Facility during the past five years. This results in at least forty violations of the General Permit and the Act.

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[http://www.ipm.ucdavis.edu/calludt.cgi/WXDESCRIPTION?STN=UC\\_RIVER.A](http://www.ipm.ucdavis.edu/calludt.cgi/WXDESCRIPTION?STN=UC_RIVER.A) (last accessed on June 24, 2014.) The rain dates also include days when the Facility reported a discharge in its Annual Reports.

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The above violations are ongoing. Consistent with the five-year statute of limitations applicable to citizen enforcement actions brought pursuant to the federal Clean Water Act, TI Wire is subject to penalties for violations of the General Permit and the Act's monitoring and sampling requirements since June 24, 2009.

***C. Failure to Prepare, Implement, Review and Update an Adequate Storm Water Pollution Prevention Plan***

Section A and Provision E(2) of the General Permit require dischargers of storm water associated with industrial activity to develop, implement, and update an adequate storm water pollution prevention plan ("SWPPP") no later than October 1, 1992. Section A(1) and Provision E(2) require dischargers who submitted an NOI pursuant to the General Permit to continue following their existing SWPPP and implement any necessary revisions to their SWPPP in a timely manner, but in any case, no later than August 1, 1997.

The SWPPP must, among other requirements, identify and evaluate sources of pollutants associated with industrial activities that may affect the quality of storm and non-storm water discharges from the facility and identify and implement site-specific best management practices ("BMPs") to reduce or prevent pollutants associated with industrial activities in storm water and authorized non-storm water discharges (General Permit, Section A(2)). The SWPPP must include BMPs that achieve BAT and BCT (Effluent Limitation B(3)). The SWPPP must include: a description of individuals and their responsibilities for developing and implementing the SWPPP (General Permit, Section A(3)); a site map showing the facility boundaries, storm water drainage areas with flow pattern and nearby water bodies, the location of the storm water collection, conveyance and discharge system, structural control measures, impervious areas, areas of actual and potential pollutant contact, and areas of industrial activity (General Permit, Section A(4)); a list of significant materials handled and stored at the site (General Permit, Section A(5)); a description of potential pollutant sources including industrial processes, material handling and storage areas, dust and particulate generating activities, a description of significant spills and leaks, a list of all non-storm water discharges and their sources, and a description of locations where soil erosion may occur (General Permit, Section A(6)).

The SWPPP also must include an assessment of potential pollutant sources at the Facility and a description of the BMPs to be implemented at the Facility that will reduce or prevent pollutants in storm water discharges and authorized non-storm water discharges, including structural BMPs where non-structural BMPs are not effective (General Permit, Section A(7), (8)). The SWPPP must be evaluated to ensure effectiveness and must be revised where necessary (General Permit, Section A(9),(10)).

CCAIEJ's investigation of the conditions at the Facility as well as TI Wire's Annual Reports indicate that TI Wire has been operating with an inadequately developed or implemented SWPPP in violation of the requirements set forth above. TI Wire has failed to evaluate the effectiveness of its BMPs and to revise its SWPPP as necessary. TI Wire has been in continuous violation of Section A and Provision E(2) of the General Permit every day since June 24, 2009, at the very latest, and will continue to be in violation every day that TI Wire fails to prepare,

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implement, review, and update an effective SWPPP. TI Wire is subject to penalties for violations of the General Permit and the Act occurring since June 24, 2009.

***D. Failure to File True and Correct Annual Reports***

Section B(14) of the General Permit requires dischargers to submit an Annual Report by July 1st of each year to the executive officer of the relevant Regional Board. The Annual Report must be signed and certified by an appropriate corporate officer. General Permit, Sections B(14), C(9), (10). Section A(9)(d) of the General Permit requires the discharger to include in their annual report an evaluation of their storm water controls, including certifying compliance with the General Permit. *See also* General Permit, Sections C(9) and (10) and B(14).

For the last five years, TI Wire and its agents, Mike Burkholder and Dale Young, inaccurately certified in its Annual Reports that the Facility was in compliance with the General Permit. Consequently, TI Wire has violated Sections A(9)(d), B(14) and C(9) & (10) of the General Permit every time TI Wire failed to submit a complete or correct report and every time TI Wire or its agents falsely purported to comply with the Act. TI Wire is subject to penalties for violations of Section (C) of the General Permit and the Act occurring since at least June 28, 2010.

**III. Persons Responsible for the Violations.**

CCAIEJ puts Tree Island Wire (USA), Inc., Mike Burkholder, and Eric Jensen on notice that they are the persons responsible for the violations described above. If additional persons are subsequently identified as also being responsible for the violations set forth above, CCAIEJ puts TI Wire on notice that it intends to include those persons in this action.

**IV. Name and Address of Noticing Parties.**

The name, address, and telephone number of CCAIEJ is as follows:

Penny Newman  
Executive Director  
Center for Community Action and Environmental Justice  
P.O. Box 33124  
Jurupa Valley, CA 92519  
Tel. (951) 360-8451

**V. Counsel.**

CCAIEJ has retained counsel to represent it in this matter. Please direct all communications to:

June 24, 2014

Tree Island Wire (USA), Inc. – Notice of Violations and Intent to File Suite

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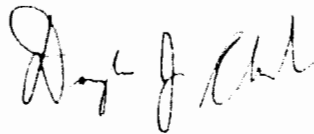
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The Law Office of Gideon Kracov  
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11th Floor  
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Tel: (213) 629-2071  
gk@gideonlaw.net

## VI. Penalties.

Pursuant to Section 309(d) of the Act (33 U.S.C. § 1319(d)) and the Adjustment of Civil Monetary Penalties for Inflation (40 C.F.R. § 19.4) each separate violation of the Act subjects TI Wire to a penalty of up to \$37,500 per day per violation. In addition to civil penalties, CCAEJ will seek injunctive relief preventing further violations of the Act pursuant to Sections 505(a) and (d) (33 U.S.C. § 1365(a) and (d)) and such other relief as permitted by law. Lastly, Section 505(d) of the Act (33 U.S.C. § 1365(d)), permits prevailing parties to recover costs and fees, including attorneys' fees.

CCAIEJ believes this Notice of Violations and Intent to File Suit sufficiently states grounds for filing suit. CCAIEJ intends to file a citizen suit under Section 505(a) of the Act against TI Wire and its agents for the above-referenced violations upon the expiration of the 60-day notice period. However, during the 60-day notice period, CCAIEJ would be willing to discuss effective remedies for the violations noted in this letter. If you wish to pursue such discussions in the absence of litigation, CCAIEJ suggests that you initiate those discussions within the next 20 days so that they may be completed before the end of the 60-day notice period. CCAIEJ does not intend to delay the filing of a complaint in federal court if discussions are continuing when that period ends.

Sincerely,



Douglas J. Chermak  
Lozeau Drury LLP  
Attorneys for Center for Community Action and  
Environmental Justice

cc via first class mail: Bruce Yost, Agent for Service of Process  
Tree Island Wire (USA), Inc.  
3880 W. Valley Blvd.  
Walnut, CA 91789

**SERVICE LIST – via certified mail**

Gina McCarthy, Administrator  
U.S. Environmental Protection Agency  
1200 Pennsylvania Avenue, N.W.  
Washington, D.C. 20460

Thomas Howard, Executive Director  
State Water Resources Control Board  
P.O. Box 100  
Sacramento, CA 95812-0100

Eric Holder, U.S. Attorney General  
U.S. Department of Justice  
950 Pennsylvania Avenue, N.W.  
Washington, DC 20530-0001

Citizen Suit Coordinator  
Environment and Natural Resources Division  
Law and Policy Section  
P.O. Box 7415  
Ben Franklin Station  
Washington, DC 20044-7415

Jared Blumenfeld, Regional Administrator  
U.S. EPA – Region 9  
75 Hawthorne Street  
San Francisco, CA, 94105

Kurt V. Berchtold, Executive Officer  
Santa Ana Regional Water Quality Control Board  
3737 Main Street, Suite 500  
Riverside, CA 92501-3348

# **ATTCHMENT A** **Rain Dates, TI Wire, Rancho Cucamonga, California**

11/28/2009	12/18/2010	3/17/2012
12/7/2009	12/19/2010	3/18/2012
12/12/2009	12/20/2010	3/31/2012
12/13/2009	12/21/2010	4/11/2012
12/30/2009	12/22/2010	4/13/2012
1/17/2010	12/25/2010	4/25/2012
1/18/2010	12/29/2010	4/26/2012
1/19/2010	1/2/2011	8/30/2012
1/20/2010	1/3/2011	10/11/2012
1/21/2010	1/30/2011	11/8/2012
1/22/2010	2/16/2011	12/12/2012
1/26/2010	2/18/2011	12/13/2012
2/5/2010	2/19/2011	12/18/2012
2/6/2010	2/25/2011	12/24/2012
2/9/2010	2/26/2011	12/29/2012
2/22/2010	3/20/2011	1/24/2013
2/27/2010	3/21/2011	1/25/2013
3/4/2010	3/23/2011	2/8/2013
3/6/2010	4/8/2011	2/19/2013
4/5/2010	5/18/2011	3/7/2013
4/12/2010	7/31/2011	3/8/2013
4/20/2010	10/5/2011	5/6/2013
4/22/2010	10/6/2011	7/20/2013
4/28/2010	11/4/2011	10/9/2013
10/6/2010	11/6/2011	11/21/2013
11/8/2010	11/12/2011	12/7/2013
11/20/2010	11/20/2011	2/6/2014
11/21/2010	12/12/2011	2/28/2014
11/24/2010	1/21/2012	3/1/2014
12/5/2010	1/23/2012	4/1/2014
12/6/2010	2/15/2012	4/2/2014
12/16/2010	2/27/2012	4/25/2014